

Remarks:

Claims 2-5, 20-23, and 25 remain for consideration in this application along with newly added claim 28.

Claim 20 has been amended to recite that the apparatus includes a remote control transmitter which transmits signals corresponding to operating instructions input by an operator who is remote from the apparatus and wherein the signals are received by an on board receiver which controls at least one function of the apparatus. Support for this amendment may be found in the Specification on page 6, lines 1-14, page 16, lines 9-12, and Fig. 16. Fig. 16 clearly shows use of a remote control transmitter by an operator who is not located on the apparatus. The Specification on page 6, lines 11-14 clearly states that the operator could walk along in front or alongside of the apparatus and provide instructions through the transmitter which are received by the receiver and used to control a function of the apparatus. Thus the amendments to claim 20 are fully supported by the specification and drawings as filed and do not constitute the introduction of new matter.

Claim 28 has been newly added and is nearly identical to claim 20 with the exception that the limitation of a video camera found in claim 20 has been deleted together with the limitation that the individual using the remote control transmitter is remote from the machine.

Turning now to the Office Action dated July 7, 2005, the abstract was objected to because the phrase “an improved roadway crack sealing apparatus is provided” was redundant. Applicant has deleted the terms “improved” and “is provided” in order to bring the abstract into conformance with the requirements of MPEP §608.01(b). Applicant requests that this objection now be withdrawn.

Claims 24 and 26 were rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements. Claims 24 and 26 have been canceled thereby rendering this rejection moot. However, the limitations of these claims have been incorporated, at least in part, in claims 20 and 28. Applicant submits that claims 20 and 28 recite the necessary cooperative relationships between the transmitter and receiver, that is, the transmitter transmits a signal which is received by the receiver and used to control at least one function of the apparatus.

Claims 20, 2-4, and 24-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. in view of Lemelson. Hall was cited for substantially the same reasons as in the previous office action. Lemelson was cited as teaching a heating unit for a nozzle as well as a TV camera. It was alleged that Lemelson also discloses the use of a variety of different types of remote control transmitters and signal receivers capable of receiving signals from an operator of the apparatus when the operator is remote from the apparatus. In support of this assertion, components numbered 64 and 229 were identified as examples of remote control transmitters and 61, 217, and 222 were identified as examples of signal receivers. In response, Applicant asserts that Lemelson does not disclose, teach or suggest a remote control transmitter or receiver. In fact, the disclosure in Lemelson is completely devoid of the words "remote control" because using one to operate the apparatus of Lemelson was not even contemplated. Components 64 and 229 are not remote control transmitters as 64 is a manual control, while 229 is a conventional keyboard. Clearly neither 64 nor 229 are remote control transmitters and component 64 is never mentioned in the specification other than being noted in Fig. 6. Without a remote control transmitter, there is no use for a remote control receiver and therefore, the items noted as being a receiver can not remote control signal receivers.

The only disclosure of using a remote control system came from Applicant's disclosure. Thus, Hall and Lemelson do not teach all of the claimed features as is required to establish *prima facie* obviousness.

Claims 20, 3, 5, and 24-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sterner in view of Lemelson. Sterner does not overcome the shortcomings of Lemelson as described above as Sterner does not disclose remote control of a road paving or repair system. Therefore, Applicant requests that this rejection be withdrawn.

Claims 2 and 21-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sterner in view of Lemelson and further in view of Campbell. Campbell was cited as teaching that road maintenance apparatuses are preferably provided with a storage tank for liquids, and a hopper having an outlet opening further comprising a selectively openable and closeable feeder gate to control the amount of fill material being dispensed from the hopper. Campbell does not overcome the shortcomings of Sterner or Lemelson as described above. Therefore, Applicant requests that this rejection be withdrawn.

Applicant submits that newly added claim 28 is allowable as the limitation of "a remote control transmitter which transmits signals corresponding to operating instructions input by the operator, wherein said signals are received by an on board receiver which controls at least one function of the apparatus" is not taught by any of the references of record.

In view of the forgoing a Notice of Allowance appears to be in order and such is courteously solicited.

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

By 

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